Supreme Court, U.S.
FILED
(1)
931531 NOV 8 1993
OFFICE OF THE CLERK

NO.

IB THE
SUPREME COURT OF THE UNITED STATES
October Term, 1993

EARLENE POLYAK Petitioner

v

JIM HAMILTON et al.,

BUFORD EVANS & SONS

WILLIAM BOSTON AND
BOSTON BATES & HOLT

THOMAS STACK AND
HENRY HENRY & STACK

FRANK HULEN AND WILMA
LESNANSKY

EDWARD MAGIGAN, Secretary
of U.S. Department of
Agriculture et al.,

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS AND THE UNITED STATES DISTRICT COURT FOR THE SIXTH CIRCUIT

EARLENE POLYAK
3179 Middlefield Drive
Trenton, Michigan 48183
(313) 676-3364
- or -
145 Lakeside Drive
Jupiter, Florida 33458
(407) 743-9544

QUESTIONS PRESENTED

1.Is it unusual for the Court of Appeals to bar the filing of further actions, or appeals regarding federal civil and constitutional laws and rights absent oral argument showing a colorable claim?

2.Is the landowner's federal rights protected under the new civil rights legislation for a jury trial for relief in punitive and compensatory damages under Public Law 101&102?

3.Should the court of Appeals affirm the granting of "absolute judicial immunity" to state judge dening Appeal as a Right Rule 3 FrcivP?

4.Is the state liable for intentional discrimination against federal rights under color of usuage in 28 U.S.C. 1983?

5.Should the civil rights of one sibling be supressed, and is it time for this Court to rule in this abuse in Public interest?

6.Is injunction allowed direct appeal to Supreme Count under Civil Rights Act 1964?

TABLE OF AUTHORITIES

Page

American Nat'l Bank and Trust co. 27
v. Clark 586S,W. 2d 908-10(Tenn.1983)

Davis v City and County of San Fran-.... 27
cisco, 976 F 2d 357 365(6th Cir)

Erie Railroad v v Thompkin,..... 24
(1980) Moores K.F. 6716.5 M 661,

G & Merrian v Saafield..... 23
241 US 22 20 28 S Ct 477 60 L Ed 868

Harris vGibson,..... 25
C.A, Ca 1963 322 F 2d 780 376 U,S. 908

Jorden v Gillian 21
U.S. 500 F 2d 701(6th Cir.)

Olle v Henry & Wright Corp..... 27
910 F 2d 257 365(6th Cir

Sproles v Grey..... 24
296 S.W. 2d 839

Stump v Sparkman.....22
435 U.S. 1207

United States v Detroit.....21
US 321 26 S Ct 282 287 50 Led 499

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
TABLE OF AUTHORITIES	iii
PETITION FOR WRIT OF CERTIORARI	1
OPINION	2
JURISDICTION	2
CONSTITUTIONAL PROVISIONS	4
STATEMENT OF THE CASE	6
REASONS WRIT SHOULD ISSUE	15
CONCLUSION	28
CERTIFICATE OF SERVICE	29

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1993

EARLENE POLYAK Petitioner

v

JIM HAMILTON, Individually and
Chancery and Circuit Judge :

BUFORD EVANS & SONS

WILLIAM BOSTON AND
BOSTON BATES & HOLT et al.,

THOMAS STACK AND
HENRY HENRY & STACK

FRANK HULEN AND WILMA LESNANSKY

EDWARD MADIGAN, Secretary of U.S
Department of Agriculture

PETITION FOR WRIT OF CERTIORARI

Petitioner prays that writ of certiorari issue to review the affirming without oral argument in docket control, of the denial of the "right of "(a)" party to sue", for relief from intentional discrimination against federal rights, conflicting with this and other Courts, pursuant to the Civil Rights Act of 1964, as amended in Public Law 101 and 102.[1]

[1] Cases Nos: 92-6526(1:85- 0116 Earlene Polyak v Jim Hamilton, Individually and in

Judicial Capacity as State Judge of Chancery Circuit Court of Lawrence County; 92-6529(1:85-0120)Buford Evans & Sons v Earlene Polyak.92-6527(1:86-0036) Earlene Polyak v William Boston and Boston Bates & Holt; 92-6345/6528 (1:85-0125) Earlene Polyak v Thomas Stack and Henry Henry & Stack; 92-6523(1:87-0075)Frank Hulen and Wilma Lesnansky v Earlene Polyak;92-6530(1:84-0082); Frank Hulen and Wilma Lesnansky v Earlene Polyak; 92-6347/ 6523 (1:84-0083) Earlene Polyak v Frank Hulen and Wilma Lesnansky; and 93-5029(3-92-0074)Earlene Polyak v Edward Madigan Secretary of U.S. Department of Agriculture.

OPINIONS BELOW

The opinions of the United States Court of Appeals are set forth in Appendis A, and the opinions of the United States District Court for the Sixth Circuit,Columbia Division Middle District of Tennessee are set forth in Appendix B.All related opinions to the above are set forth in appendix C.

JURISDICTION

The jurisdiction of this upreme Court is invoked orders issued with immediate mandate without allowing petition for rehearing on

August 13, 1993, and August 17, 1993, and this petition for writ of certiorari is within ninety (90) days there of August 13, 1993.

The jurisdiction of this Supreme Court is invoked in the Civil Rights Act of 1964, Title VI and VII,under which the Equal Employment Opportunity Commission, and the Agricultural Adjustment Act of 1938, prohibits discrimination against disability, age, sex, race, and national origin, and amended in Public Law 101 and 102 to strengthen the civil rights act and 42 U.S.C. 1981 in the right of "(a)"party to sue. And it provides for compensatory and punitive relief for intentional discrimination against federal rights.

The jurisdiction is invoked in Article III Sec.2, which states that the judicial power shall extend to all cases in law and equity, between citizens of different states.

This jurisdiction is further invoked in statutes 28 U.S.C. 1443; 2403; 42 U.S.C. 1981, 1982, and 1983;Civil Rights Act 1964,Title VI

VII;Equal Employment Opportunity Commission; Agricultural Adjustment Act of 1938, Public Law 101 and 102, and the Fifth Seventh and Fourteenth Amendments.

The federal civil and constitutional questions of intentional discrimination against federal rights in matters of law and equity have been raised at all levels.

CONSTITUTIONAL PROVISIONS

The pertinent portion of the Fifth Amendment provides as follows:

> No...person shall be deprived of life, liberty, or property without due process of the law;nor shall private property be taken without just compensation

U.S. Const.Amend. V Cl 3 & 4.

The pertinent portion of the Seventh Amendment provides as follows:

> ...where the value in controversy shall exceed twenty dollars,the right of a jury trial shall be preserved.

U.S. Const.Amend. VII.

The pertinent portion of the Fourteenth Amendment provides as follows:

> No state shall make or enforce any laws which shall abridge the priveleges or

immunities of citizens of the United STates;nor shall any state deprive any person of life, liberty or property without due process of the law.
U.S. Const. Amend. XIV.

28 U.S.C. 1981:

All"(a)" person within the jurisdiction of of the United States shall have the same right "to sue"...to the full and equal benefit of all laws.

28 U.S.C. 1982:

All persons of the United States shall have the same right in every state...to inherit, hold, convey real and personal property.

28 U.S.C. 1983:

Every person,who under the color of any statute,ordinance, regulation, custom, usuage of any state...subject or cause to be subjected any citizen of the United States or persons within its jurisdiction thereto the deprivation of rights and priveleges secured by the constitution and laws shall be liable at law and equity or some other proceeding for the parties.

28 U.S.C. 1443:Any of the following commenced in a state court may be removed by defendant to a district court.

(1) Against any person who is denied or cannot enforce in the courts of such state a law providing for the equal civil rights of a citizen of the United States.

in left upper corner ofthe exhibit;"Please communicate to my clients as underlined"Thanks Bd," The underlined parties in Order 91-8112 CIV-ZLOCH, United States District Court,Southern District of Florida are: William Boston and Boston Bates & Holt, Frank Hulen and Wilma Lesnansky, Jim Hamilton and the Chancery and Circuit Courts filed in Chancery 1974 Frank Hulen and Wilma Lesnansky v Earlene Polyak in the Lawrence County Courthouse(App.C.p.91).

This Petition for Rehearing En Banc dismissal on September 23, 1992, to set aside dismissal on new evidence pursuant to Rule 60. 02 FRcivP in District Court. 1:84-0082 Frank Hulen and Wilma Lesnansky v Earlene Polyak is really a counter-claim and appeal under 28 U.S.C. 1443 for the discrimination against equal civil rights 92-6527(App.B.p.B.p. 54).

The District issued second injunction against right to sue in 1:84-0082 on October 6, 1992 (first injunction on November 13, 1983, by the Honorable Thomas Wiseman in 1:85-0116

Earlene Polyak v Jim Hamilton et al.,against Petitioner filing any further complaints regarding her property in Lawrence County.

On April 30, 1986,Judge Wiseman stated in an order to the Clerk of District Court,"That order was entered because of Mrs Polyak's filing against the various persons in this Court...she should be severly punished therefor" 1:84-0082 on October she was sanctioned again.

This injunction against Petitioner filing in the District Court was issued on all complaints including those already appealed in 92-6345 appealed on September 23,1992, on 1:84-0082 October 6, 1992 injunction 92-6528 (1:85-0125 Earlene Polyak v Thomas Stacn And Henry Henry & Stack.Affirmed by the Court of Appeals on August 17, 1993(App.A.p.28).

This Complaint and Demand for Jury Trial is grounded in negligence and malfeasance of professional skill and care for the constitutional rights and interest of Petitioner was dismissed in directed verdict on June 6, 1988

The injunction against Petitioner filing complaints in right to sue issued in 1:84-0082 was issued on already appealed with one hundred five($105.00 check) on District Court 92-6347 in 92-6525(1:84-0083) Earlene Polyak v Frank Hulen and Wilma Lesnansky.This dismissal was affirmed on August 13, 1993(App.A.p.p.23).

1:84-0083. is Complaint and Demand for Jury Trial for relief in damages and of Farm 3148 in settlement by agreement in January1976 in"kind and severalty" pursuant to Tennessee Statute Partition in Kind 29-27-117, for seven (7) years Farm 3148(App.A.p.31).

The injunction against Petitioner filing in right to sue issued in 1:84-0082 was issued against Petitioner on October 6, 1992 in 92-6529(1:85-0120 Buford Evans & Sons v Earlene Polyak on August 13, 1993, which was affirmed on August 13, 1993(App. A.p.10).

1:85-0120 is really a counter-claim joined to District Court 1:85-0116, under 28 U.S.C. 1:85-0116, after Judge Hamilton denied

motion to forward records to state Court of Appeal as a Right Rule 3 Frciv and TRcivP.

On October 28, 1987, Petitioner was in the Cardiac Unit of University of Alabama for multiple by-pass when Judge Higgins dismissed 1:84-0082, 1:84-0083, 1:85-0120, and 1:85-0116 and denied motion for continuance, but all cases were timely and properly appealed to the Court of Appeals under diversity of citizenship.Western Union verified that Clerk received motion for continuance on October 27, at eleven a.m. while in hospital bed. .

This injunction issued against right to sue issued in 1:84-0082 on October 6, 1992 was issued in 92-6523(1:87-0075)Frank Hulen and Wilma Lesnansky v Earlene Polyak, and affirmed on August 13, 1993(AppA.p.17).

1:87-0074 is a counter-claim complaint timely and properly removed from state Circuit Court within four days of Robert Boston filing his order to sell Farm 3148 for Petitioner's "interest therein" at Public Auction on August 21, 1987,held in District Court over

thirty-three(33) days without filing, and dismissed on day filed September 29, 1987.Ms. Juliet Griffin, Clerk opened case with Court order on October 5, 1987, alleging that Petitioner, who was in Michigan, appeared in District Court. This dismissal was affirmed on 13, 1993(App.A.p.17).

This injunction against Petitioner's right to sue on October 6, 1992 was issue in 92-6527 (1:86-0036)Earlene Polyak v William Boston and Boston Bates & Holt. This dismissal affirmed on August 13, 1993(App. A.p.p.14).

This complaint and demand for jury trial for negligence and malfeasance after Defendants neglected to provide necessary professional skill and care for their client, after dividing loyalties and appearing against her on July 29, 1983,in 1974 Hulen v Polyak.They further damaged her in UNAPPEALABLE JUDGMENT prepared by Charles Holt and signed by Judge Hamilton on which state case dismissed, and no notification of final order entered for

right of redemption or right of appeal to this date in 83-405-II(1974).

This injunction against Petitioner's right to sue issued in 1:84-0082 on October 6, 1992 was issued in 92-6526(1:85-0116 Earlene Polyak v Jim Hamilton et al, and affirmed on August 17, 1993(no certified record App.A.p.3,4).

Despite all allegations, misrepresentations and intentional disregard for federal rules and regulations in the intentional discrimination against federal rights of Pro Se,affirmed in the Court of Appeals for the District Court, case No. 1:85-0116 was filed for the denial of federal, civil and constitutional rights by Judge Hamilton in 10647 under 28 U.S,C. 1983 on November 8, 1983.

The Court of Appeals denies all writs to the District Court to correct the records in the above appeals. The certified records were never forwarded in 92-0116, 92-86-0036, and 1:85-0125(App.A.p.3,13, 27).

The appeal submitted to the dismissal of

3-92-0074 Earlene Polyak v Edward Madigan, U.S. Secretary of Department of Agriculture for the sua sponte dismissal of the above necessary Defendants ten(10) briefs filed on February 18, 1993, and five(5) photo copies filed on March 31, 1993,has been delayed any action by the Court of Appeals(App.A.p. 38,39)

The Court of Appeals issued mandate on order in what Petitioner believes if federal entrapment on January 29, 1993 [illegible] for further sanction and dismissal of unusual No.3-92-0074

On October 20, 1992,Court of Appeals issued injunction on 92-5240(1:85-0120 Evans v Polyak,against right of "(a)" party to sue.with out oral argument to show cause for Title IV Review of abuse of federal rules and regulation This injunction was issued again on January 11, 1993, without allowing petition for rehearing.

All petitions for rehearing above orders on August 13, and 17, 1993,timely and properly returned without filing in the Court of Appeal denying Right of Appeal Rule 3 FRcivP.

REASONS WHY WRIT SHOULD ISSUE

Petitioner prays that writ of certiorari issue to review the unusual and extreme situtation where principles of equity mandate relief in jury trial on NEW EVIDENCE, which could not have been fully considered and correctly and finally determined in the intentional discrimination against federal rights in Farm V1754(3148), to set aside all orders, pursuant to Rule 60.02 FRAUD(whether intrinsic or extrinsic) and misrepresentation by adverse party FRcivP.

This abuse of discretion in the District Court in the disregard of new evidence, of intentional discrimination against federal rights to United States Department of Agriculture(USDA federally alloted burley tobacco quota, dismissal affirmed in eight(8) appeals without oral argument for merit or color with immediate mandate, in injunction against right to sue, and injunction against petition for rehearing comes under the Civil Rights Act of 1964 Title VI VII

The Court of Appeals for the Sixth Circuit is in conflict with other Courts in ruling under Public Law 101 and 102, stated in 92-6523 (1:87-0075), in which Writ of Certiorari 93-593 Davis v City and county of San Francisco, filed on October 12, 1993.

Petitioner believes that four(4) injunctions against pro se right of "(a)" party to sue for intentional discrimination against federal rights is of Public Interest pursuant to 28 U.S.C. 2403.

1. THE COURT OF APPEALS AFFIRMS ABUSE OF DISCRETION OF NEW EVIDENCE WHICH COULD NOT HAVE BEEN FULLY CONSIDERED AND CORRECTLY AND FINALLY DETERMINED IN INTENTIONAL DISCRIMINATION AGAINST FEDERAL RIGHTS

The Court of Appeals affirms abuse of discretion in total disregard of new evidence which could not have been fully considered and correcctly and finally determined in the intentional discrimination against federal right to USDA federally alloted burley tobacco quota pursuant to Public Law 101 and 102 passed on November 21, 1991.

Petitioner submitted a letter delaying notification to her that one thousand nine hundred and forty six(1946) pounds burley quota would be lost from Mr. Jeff Beecham Agricultural Stablization and conservation Service (ASCS) if not raised or transferred dated June June 21,1990, six (6) days prior to deadline on July 2, 1990.

In March 1991, Petitioner received notification from ASCS that total USDA burley quota lost.Although Petitioner had reported loss to ASCS Office in 1993, the above information was not available to her to report prior to 1990.

Petitioner reported that she did not receive any rent in 1983, and that over five (500) federally alloted burley raised on another farm,had been sold on 3148. She had received rent during seven (7) year statute farm division in settlement by agreement.

Petitioner reported evidence that burley quota sold on Farm 3148. in insecticide Report of ().7 acres raised on Farm 3148 , Sub, 1993

Petitioner submitted evidence that taking of five hundred twenty six(526) pounds of federally alloted burley quota alloted to Farm 3148 to sell tobacco raised on another Farm was in violation of the Agricultural Adjustment act of 1938 in rules for marketing tobacco signed by E.Q Williams on November 1, 1984.

Rule No. 7 on marketing burley tobacco states

> If the marketing card is used to market tobacco produced on this farm is identified on the market card for another farm, the persons involved may be subjected under Title 18 Sec. 1001 of the U.S.criminal code. 926 lbs on ticket board

Additional new evidence of intentional discrimination against federal rights in the transfer of five hundred twenty-three (523) pounds without Petitioner's knowledge or permission on May 8, 1987 in violation of sec,313 of Agr. Act 1938.

In addition a true and exact copy of the transfer of one thousand five hundred twenty-eight(1528) pounds without notification to

Petitioner on March 4, 1988.

In addition to the above, Petitioner included a copy of false statement with a letter from Mr. Beecham ASCS, with permission for any action voided on soly owned Farm on November 16, 1982, five(5) years prior to tranfer of federally alloted burley to landowner without notification on May 8, 1982.

This complaint and demand for jury trial for relief in a set-aside pursuant to Rule 60. 02 FRcivP contained a copy of Robert Boston's order submitted to Petitioner on August 21. 1987, but immediately removed under 28 U.S.C. 1443 to District Court, which was held from over thirty-three(33) days and dismissed on day filed on September 29. 1987 (1:87-0075).

Petitioner received an affidavit from Lawrence County citizen that Notice of Sale at Public Auction in Democrat Union about November 1987.This order of sale was for Petitioner's"interest therein" in Farm 3148. This affidavit filed in District Court on June 18,

1988, but Petitioner found NO FINAL ORDER when reviewing 1974 on September 24, 1993. However, Petitioner found further evidence of Robert Boston submitting a copy of 91-8112 CIV ZLOCH with note underlyinging representation Jim Hamilton and Chancery and Circuit Court

Petitioner was appointed Administrator of this Farm on August 30, 1976.She is obligated to pay one-third of the property tax since 1976.

2. THE COURT OF APPEALS AFFIRMS ABUSE OF DISCRETION IN INTENTIONAL DISCRIMINATION AGAINST FEDERAL RIGHTS WHERE UNUSUAL AND EXTREME SITUATION MANDATES RELIEF

The Court of Appeals affirms dismissal of complaint grounded in above records ASCS office in the intentional discrimination against federal right to USDA burley, in denial of right of appeal Rule 3 FRcivP and TRcivP in 10647 Evans v Polyak, but denial of Judge Hamilton to forward records to state court of appeal 1:85-0116 for the denial of federal civil and constitutional right

pursuant to 28 U.S.C. 1983 92-6526(85-0116)

The court of Appeals misrepresents denial of federal civil and constitutional right of appeal Rule 3 FRcivp 10647 Evans v Polyak timely and properly before the District court in 1:85-0116(Polyak v Hamilton et al).as " judicial immunity" for a state Judge,

> Congress intended 1983 to be an indepent protection for federal rights and thereis nothing to suggest that congress intended to extend the common law of judicial immunity to insulate the state judge completely from federal review.United States v Detroit US 321 26 S Ct 282 287 50 L Ed 499

The court of Appeals alleges and further defends the state Judge action in the denial of federal civil and constitutional right of Appeal Rule 3, FRcivP,TRcivP in the Chancery and Circuit Courts of Lawrence County 10647.

> Appellant's do not contend that state officials are immune from suits to restrain unconstitutional acts undertaken their official capacity.the law clearly recognizesthe tight of an interested party to force state officials to act according to the constitution.Jorden v Gillian, U.S. 500 F 2d 701(6th Cir).

Judge Hamilton is a state actor and

is responsible for legal malpractice Flagg-Bros v Brooks, 436 U.S. 149 155-57(1978).

The Court alleges can only sue person Chancery and Circuit Court but a suit against the state actor becomes a suit against the the State of Tennessee.

> And the relevant factors determning whether an Act of a Judge is a judicial one relates to the nature of the act itself, whether it is a function normally performed by a judge and to the expectation of the parties. Stump v Sparkman 435 U.S. 1107.

The Court of Appeals not only misresents 1:85-0116 for denial of federal civil and constituional laws and rights in 10647 Evans v Polyak, but misrepresent injunction against right to sue in 1:84-0082,and all cases,October 6, 1992, and December 9, 1992, as rehearing en banc in 92-6526. No Petition allowed by court

The court of appeals continues misrepresentation of complaint and set aside Rule 60.02 FRcivP, and and final order, but NO FINAL ORDER"found on review of records and on October 27, 1990, July 30, 1992, or on September 24, 1993 in Chancery 1974.

The court of of appeals rules against this Supreme court in alleging final order in 1974, in which Petitioner was set-up in obligation to defend her rights and interests before Judge Hamilton, with Boston Baton Bates & Holt, after dividing loyalties, and law suit after seven(7) year statute for sale of Farm 3148 at "Public Auction", with heart failure in temperature 102 degrees, and against nationwide warning to heart patient. Henry Henry & Stack for negilence 0125.

> Supreme Court has ruled it as "familiar law" that only final judgment is res judicata.G & Merrian v Saafield, 1916 241 US 22 20 28 S Ct 477 60 L d 868.

If there is a final order it must be secreted by Judge Hamilton, which brings the nature of the act and that 3148 with USDA burley quota has been sold without jury trial, any compensation, without notification to Petitioner of date place, amount of proceeds, and without notification of entering order for right of redemption and right of appeal since April 26, 1984, Rule 60.02 FrcivP

The Court of Appeals errors in affirming the District Court dismissal of 1:85-0116, without review of the unusual and extreme situation, where principles of equity mandate relief, from the intentional discrimination against federal right in USDA burley, sold and transferred without jury trial in Fifth Seventh and Fourteenth Amendments in Chancery Court.

> A Court of equity in a partition case does not act merely in a minimistral capacity, but founds on general principles of equity according to its own notion of equal justice and equity between parties. It will, by its decree, adjust all equitable rights of the parties interested. Sproles v Gray, 296 S.W. 2d 839.

The Court of Appeals affirms the District error in case brought to District Court because Petitioner could not enforce laws providing for equal civil rights denied by state, under diversity of citizenship, and for deprivation of civil rights

> Erie Railroad v Thompkin requires federal Courts to give some equitable remedies in in diversity case. the only qualification is that federal court have power to grant relief. Erie Railroad v Thompkin, (1980) Moores K.F. 6716.5 M 661.

These principles of equity mandate relief,

recall and stay mandate was denied on August 17, 1993, with seven orders all to same three Judges in seven(7) appeals.

This disregard of federal rules and regulation adversly affects Petitinor in that the Right of Appeal to any action of the District Court is denied in injunction against right to sue and appeal on October 20 1992, and again on January 11, 1992, when petition for rehearing injunction returned unfiled 92-6529(92-5240(1:85-0120) (Evana v Polyak.

Court of Appeals sends PRO SE APPELLANT BRIEF, and alleges "we know that you are not a lawyer, but all appeals affirmed without oral argument in docket control, Four appeals in 3-92 0074 in Writ to file case to Judge Wiseman, objection to Magistrate jurisdiction, Writ of mandamus to correct records, and Title IV Review al denied in docket control.

> Court of Appeals has power to grant necessary relief and aid of jurisdiction to prevent irreparable damage. Harris v Gibson C.A. Ca.1963 322 F 2d 780 376 U.S 908.

3. THE COURT OF APPEALS AFFIRMS SUA SPONTE OF ABOVE NECESSARY DEFENDANTS IN DENIAL OF RIGHT OF APPEAL RULE 3 FRCIVP in MIS-REPRESENTATION IN INTENTITIONAL DISCRIMIN

The court of Appeals affirms the sua sponte dismissal of above necessary defendants in delaying action in misrepresentation and delayed action on timely and proper appeal with ($105), ten(10) briefs, filed on February 18, 1993, and five(5) photo copies filed on March 31, 1993 in disregard for Right of Appeal Rule 3 FRcivP in intentional discrimination against USDA burley tobacco alloted to Farm 3148, is irreparable damage to Petitioner.

The Court issued briefing schedule in 93-5029 (3-92-0074 Earlene Polyak v Edward Madigan U.S. Secretary of the Department of Agriculture) but misrepresented timely appeal filed to Dist-Court denial of petition for rehearing onDec-ember 1, 1992, notice of appeal filed on Dec-ember 11, 1992, 17 days (17) days on December 28, 1992, but alleged time to another order and disregarded action on briefs in old order for mandate January 29/1993

The Court of Appeals denies right of other appeal Rule 3 FrcivP in 3-92-0074 Complaint and demand for Jury Trial for relief in damages for intentional discrimination against federal right to USDA burley alloted to Farm 3148.

The court of Appeals disregards the fact that this Supreme Court granted writ of certi-oria and is holding decision for ten(10) weeks (information obtained from docket clerk) And the Court of Appeals conflicts with other courts Davis v City and county of San Francisco, 976 F 2d 345(1993), and in No. 92-4523"Sixth circuit has held that the Act is not reotractive Vogel v City of cleveland 959 F2d 594(6th Cir.(1992).

Petitioner contends that all eight above orders be set aside for jury trials for relief pursuant to Rule 60.02 FrcivP. in unusual and extreme situation where the principles of equity mandate relief Olle v. Henry & Wright Corp 910 F 2d 357 365(6th Cir). This new evidence could not been litigated in state court action American Nat'l Bank and Trust V Co. v Clark 586

S.W, 2d 908-10(Tenn 1983).

CONCLUSION

Petitioner prays that writ of certiorari issue to review theintentiona discrimination against federal civil and constitutiona rights to set aside orders for relief in jury trial for compensatory and punitive damages pursuant to Public Law 101 and 102.

On the 8th day of November, 1993.

REspectfully submitted,

Earlene Polyak
145 Lakeside Drive
Jupiter, Florida 33458
- or -
4179 Middlefield Drive
Trenton, Michigan 48183
(313) 676-3364
407(743-9544

Certificate of Service

I certify that a true copy of this pleading has been mailed to the Solicitor General, Department of Justice, Washington, District of Columbia 20530,the Honorable Charles Burson 450 James Robinson Parkway, Nashville, Tennessee 37219,Samuel Warner, 119 First St. Pulaski, Tennessee 38478, Robert Boston, 2100 One Commerce Place, Nashville, Tennessee 37239,

Earlene Polyak

ATATE OF FLORIDA
COUNTY OF PALM BEACH

_____
NOTARY

MY Comm'n expires:_____

APPENDIX A

In the United States Court of Appeals for the Sixth Circuit.

Earlene Polyak v Jim Hamilton et al., 92-6526(D.C. 1:85-0116).

Order: August 17, 1993

BEFORE: MARTIN and SUHRHEINRICH,Circuit Judges, and WELLFORD, Senior Circuit Judge.

Buford Evans & Sons v Earlene Polyak 92-6529(D.C. 1:85-0120).

Order: AUGUST I3, 1993

BEFORE: MARTIN and SUHRNEINCH,Circuit Judges, and WELLFORD, Senior Circuit Judge.

Earlene Polyak v William Boston And Boston Bates & Holt 92-6527(1:85-0036).

Order: August 17, 1993

BEFORE: MARTIN and SUHRHEINRICH,Circuit Judges, and WELLFORD, Senior Circuit Judge.

Order: August 13, 1993

Frank Hulen and Wilma Lesnansky v Earlene Polyak 92-6523 (D.C. 1:87-0075).

Order: August 13 1993

BEFORE:MARTIN and SUHRHEINRICH,Circuit Judges,

and WELLFORD, Senior Circuit Judge

Frank Hulen and Wilma Lesnansky v Earlene Polyak 92-630 (D.C. 1:84-0082).

Order: August 13, 1993.

BEFORE: MARTIN and SHUHRHEINRICH, Circuit Judges and WELLFORD Senior Circuit Judge.

Earlene Polyak v Thomas Stack and Henry Henry & Stack 92-6345/6528 (D.C. 1:85-0125.

Order: August 17, 1993.

BEFORE: MARTIN and SHUHRHEINRICH.Circuit Judges, and WELLFORD, Senior Circuit Judge.

Earlene Polyak v Frank Hulen and Wilma Lesnansky 92-92-6347/6525 (D.C.1:84-0083).

Order: August 13, 1993

BEFORE: MARTIN and SUHRHEINRICH,Circuit Circuit Judges,and WELLFORD Senior Circuit Judg

Earlene Polyak v Edward Madigan,Secretary of U.S. Department of Agriculture 92-5029 (D.C. 3-92-0074).

Order:August 17, 1993

BEFORE: BOGGS and SILER, Circuit Judges, and JOINER,Senior District Judge.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

August 17, 1993

Juliet Griffin
Middle District of Tennessee at Nashville
801 Broadway
Suite 800 U.S. Courthouse
Nashville, Tennessee 37203

Re: 93-6526
Polyak v Hamilton
District court No. 85-00116

Dear Clerk:

Enclosed please find:
The mandate issued in the aboe styled case.

Please be advised that the certified record was never sent to this Court on appeal.

Very truly yours
Leonard Green clerk

Signed Diane Schnur

cc: Earlene Polyak
Charles Holt Jr

No.92-6526

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED AU17 1993

EARLENE POLYAK
Plaintiff-Appellant,

v

JIM T. HAMILTON, Individually and
judicial capacity as Circuit Judge;
CIRCUIT COURT OF LAWRENCE COUNTY,

BEFORE: MARTIN and SUHHEINRICH,Circuit Judges,
AND WELLFORD,Senion Circuit Judge.

This pro se Michigan litigant,Earlene Polyak, appeals from an order of the district court denying her petition for rehearing en banc entered on the docket on October 6,1992. This case has been referred to a panel of the court pursuant to Rule 9(a),Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed Fed. R.App.34(a).

Mrs Polyak inherited property as tenant in common with her sister Wilma Lesnansky, and her brother,Frank Hulen. In 1976, Mrs Polyak's siblings sought and obtained a partition sale of the property.Mrs Polyak objected to the manner in which the property was divided and

challenged the property's partition. Mrs Polyak's challenge was unsuccessful in state courts.As a result, Mrs Polyak attempted to overturn the property's partition by instituting federal court challenges.

The defendant in this case is the Honor-Jim T. Hamilton, Judge Lawrence County, Tennessee. Alsonamed as a defendant is the Circuit Court of Lawrence County, Tennessee.Mrs Polyak originally brought suit against Judge Hamilton under 42 U.S.C. 1983,asserting that he violated her civil rights by his handling of the partition sale litigation.For relief, she sought damages and injunction prohibiting the enforcement of the order for partition. The district court dismissed the action sua sponte becauae the defendant is immune from damages under §1983.Stump v Sparklman 433 U.S. 349(1978). Additionally, Mrs Polyak's request for injunctive relief was denied under the doctrine of res judicata. The district court went on to conclude that the case was frivolous,malicious,and harassing.

This court affirmed the judgment of the district court (Case No. 85-6134 order entered 8/15/86).

In her brief on appeal, Mrs Polyak moves to set aside order pursuant to Rule 60(sic Rule 60.02FRcivP, and schedule a jury trial in all cases sua sponte dismissed by Judge Higgins on October 6, 1992, for punitive and compensatory damages pursuant to Public Law 101 102 and the return of Appellant's properties including her right to never be regained in her retirement home.

Upon review, we find no error. Mrs Polyak characterizes this appeal as a Rule 60(sic Rule 60.02) motion and her primary argument seems to be that the district court intentionally disregarded NEW EVIDENCE concerning the loss of her share of the property's burley tobacco base allotment.This is the same argument she has made in every pending appeal against EVERY DEFENDANT SHE HAS EVER SUED. A review of the history of Mrs Polyak's litigation reveals that her argument is merely a restate-

ment of events which occured in the course of the Tennessee state court action and her subsequent appeal.

An appeal from the denial of Rule 60(b) motion does not bring up for review the underlying judgment.Amernational Indus.,Inc Action Tungsram Inc.925 F 2d 970,975(6th Cir) A.Rule 60(b) motion is properly involked only in unusual and extreme situations where the principles of equity mandate relief Ole v Henry & Wright Corp.910 F 2d 357(6th Cir 1990) A Rule 60 (b) motion is properly denied where the movant attempts to use such action to relitigate the merits of a claim and the allegations are unsubstantiated..See Mustini v American TelTel Co.369 F 2d 378,379 (2d Cir 1966)(Atte a patent claim based upon unsubstantiated allegation of fraud) cert denied 387 U.S.1976.See S Smith v Moser 148 F Supp 638(W.D. Mich 1957 where granting a new trial would serve no purpose except to relitigate issues which have been fully considered and correctly and finally determined,moion for relief under

Rule 60(b) should be denied.This case presents no unusual and extreme circumstances in which the principles of equity mandate relief.

Furthermore, a trial court does not abuse its discretion in denying a Rule 60(b) motion based on newly discovered evidence where some of the evidence is not newly discovered and where the remaining evidence is cumulative and would not be likely to produce a different result.McKnight v United States Steel Corp 726 F 2d 333 336-37(7th Cir 1984). Mrs Polyak's evidence is not newly discovered nor is it likely to produce a different result in her §1983 action.The defendants in this were a state trial court judge and county circuit court under §1983,Judges are immune from damages for judicial acts Stumpt v Sparkman 435 U.S. 349(1978) and a county circuit court is not a person as required by §1983.Foster v Walsh 864 F 2d 416, 418(6th Cir 1988).

Accordingly, the district court's order dated October 6, 1992, is hereby affirmed pur-

suant to Rule 9(b)(3) Rules of the Sixth Circuit. Mrs Polyak's suggestion that the case be considered en banc is denied, and no further submissions, motions, or petitions for reconsideration or rehearings will be accept- by this court.The clerk is hereby ordered to issue the mandate immediately. Double costs will be assessed for this vexations and frivolous appeal.

ENTERED BY ORDER OF THE COURT

Signed Leonard Green

ISSUED AS MANDATE 6/17/93

No.92-6529

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED AUG 13 1993

BUFORD EVANS & SONS

Plaintiff-Appellees

v

EARLENE POLYAK

BEFORE: MARTIN and SHHRIHEINRICH Circuit Judges and WELLFORD Senior Circuit Judge

Mrs Earlene Polyak appeals from the district court order dated October 6, 1992,in which the courtrefused to consider any further submissions by Mrs Polyak with respect to liti gation arising from the 1976 partition sale of land in Tennessee.This case has been referred to a panel of the court pursuant tp Rule 9(a) Rules of the Sixth Circuit Upon examination, this panel unanimously agrees that oral argument is not needed Fed. R. App. P. 34(a).

Upon review we find no error. A review of the history of Mrs Polyak's litigation demcn- strates that she is claiming the unconstitutional deprivation of a property interest,her claim is nothing more than a recycled argument

that could have been raised in 1976 during the property partition.The same deprivation of a tobacco allotment argument has been argued on appeal at least four times and sanctions against Mrs Polyak were imposed in Case No. 89-5496 and Nos 91-5655/5656/5657 which asserted that her numerous cases be reopened on the basis of new evidence.

Affording the same res judicata effect to the Tennesseee state court judgment as the Tennessee courts,Afigera v Warren City School Dis. Bd of Educ, 465 U.S. 75(1984) we holdjudgment since under Tennessee law res judicata bars consideration of all claims which were or reasonably could have been litigated by the parties in the same state court action American National Bank and Trust Co v Clark 586 S.W. 2d 825,826-7(Tenn 1979):Grange Mut Casulty Co. v Walker 652 2d 908,909-10(Tenn. 1983). 10(Tenn Ct App. 1983).

Additionally,this court has expressly approved the practice of a district court re-quring profilic and vexatious litigants to

obtain leave of the court before any further complaints will be accepted for filing. Filipas v Lemons 835 F 2d 1145 1146(6th Cir 1987). We hold that the district court did not abuse its discretion by enjoining Mrs Polyak from further litigation on issues long ago decided.

Accorcingly, the order of the district court dated October 6, 1992 is hereby affirmed pursuant to rule 9(b)(3) Rules of the Sixth Circuit. Mrs Polyak's suggestion that the case be considered en banc is denied. Mrs Polyak's motion to recall mandate is similarily denied. Futhermore it is ordered that no further pleadings, petitions, or submissions filed by Mrs Polyak with regard to this litigation will be accepted by by the court,and the Clerk's office is hereby ordered to issue the mandate immediately,Double costs will be assessed for this vexatious and frivolous appeal.

ENENTERED BY ORDER OF THE COURT
Signed Leonard Green Clerk

ISSUED AS MANDATE 8/13/93

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

July 19, 1993

Juliet Griffin
Middle District of Tennessee at Nashville
801 Broadway
Nashville, Tennessee 37203

Re: Polyak v Madigan
District No. 3-92-0074

.....

Please be advised that the certified record was never sent to this court on appeal.

Very truly yours,

Leonard Green
Signed Diane Schur

No. 92-6527
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

EARLENE POLYAK
Plaintiff-Appellant

FILED AUG 17 1993

v

WILLIAM BOSTON AND
BOSTON BATES & HOLT

BEFORE: MARTIN and SUHRHEINRICH, Circuit Judges and WELLFORD Senior Circuit Judge

This pro se Michigan litigant appeals from the order of the district court dated October 6, 1992 in which the court ordered that no further submissions by Mrs Polyak would be considered. This case has been referred to a panel of the court pursuant to Rule 9(a) Rules of the Sixth Circuit. Upon examination, this panel unamimously agrees that oral argument is not needed Fed.R. App.P.34(a)

In 1976, Mrs Polyak inherited property in Tennessee along with her sister and brother jointly as tenants in common. Mrs Polyak's siblings sought and obtained a partition sale of the property. Mrs Polyak objected to the manner in which the property was divided and

challenged the partition in state court.Her state court challenges and the subsquent appeals were unsuccessfull. Since that time approximately 1985,Mrs Polyak has relentlessly prevailed upon the federal courts to over turn the court order of partition. In the imediate case, the defendant is William Boston and his law firm Boston Bates & Holt,who.

A review of the history of Mrs Polyak's litigation against William boston and his law firm reveals that Mrs Polyak originally sought damages for injunctive relief from the defendants. Mrs Polyak alleges that William Boston committed malpractice by representing her siblings in the partition suit,Specifically Mrs Polyak alleged that William boston divided his loyalties when he chose to represent her siblings against her, because he had previously represented both her and her siblings in probating the property in question.

After the filing of Mrs Polyak's complaint on July 1, 1989, the district court scheduled pre trial conferences on seven occa-

sions in the attempt to clarify the issues prior to trial.The first attempts to hold pre trial conference were continued because Mrs Polyak claimed her ill health would not permit her to attend.Apparently, two conferences were continued for reasons other that Mrs Polyak's alleged infirmity. After Mrs Polyak failed to attend the scheduled conferences,the district court dismissed her action pursuant to Fed. R. 41(b).During the same time,Mrs Polyak filed a motion to rescue,which was denied. Mrs Polyak appealed challenging both the dismissal of her suit and denial of motion to rescue.This court affirmed the judgment of the district court on December 13, 1990. Case No. 89-6414 Polyak v Boston.

The district court did not abuse its discretion by ordering that no further submission with respect to litigation would be considered Filipas v Lemons 835 F 2d 1145 1146(6th Cir 1987).Futhermore the dismissal of Polyak's complaint was affirmed by this court and mandate

issued.Finally, the even if the case had gone to trial as scheduled, Mrs Polyak was attempting to assert a 42 U.S.C. 1983 complaint against a private attorney for legal malpractic . Neither William Boston nor his law firm is a state actor required by Flagg Bros v Brooks 436 U.S. 149 155-57(1978) so her complaint is meritless.

Accordingly, the district court's order dated October 6, 1992 is hereby affirmed pursuant to Rule 9(b)(3) Rules of the Sixth Circuit. Mrs Polyak's suggestion that the case be considered en banc is denied, and no further submissions, motions, for reconsideration,or rehearing shall be accepted by the court. The Clerk is hereby ordered to issue the mandate immediately. Double costs will be assessed for the vexatious and frivolous appeal.

ENTERED BY ORDER OF THE COURT

Signed Leonard Green,Clerk

ISSUED AS MANDATE 8/17/93

No. 92-6523

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED AUG 13 1993

FRANK HULEN AND WILMA LESNANSKY

Plaintiff-Appellees

EARLENE POLYAK

BEFORE: MARTIN and SUHRHEINRICH Circuit Judges and WELLFORD Senior Circuit Judge

This pro se Michigan litigant Earlene Polyak appeals an order of the district court denying her petition for rehearing en banc entered on the docket on October 6, 1992.This case has been referred to a panel of the court pursuant to Rule 9(a) Rules of the Sixth Circuit. Upon examination this panel unanimously agrees that oral argumnet is not needed Fed. R. App. P.34(a).

This case and eight others presently before the court (92-6345/6525; 92-6347/6528; 92-6526;92-6527; 92-6529;;93-5029; and 92-6530 had their origin in 1976 when Mrs Polyak and her two siblings inherited from their mother a family farm in Lawrence County,Tennessee as

tenants in common. Mrs Polyak objected to the manner in which the farm was divided and began protracted state court pooceedings.

Failing to prevail in state court litigation , Mrs Polyak began assult on the partition sale in federal court in 1985. She sought monetary damages and an order setting aside the partition sale. The defendants in this case are Mrs Polyak's brother Frank Hulen and her sister Wilma Lesnansky.The defendants have long ago stopped filing briefs in response.

Mrs Polyak is appealing from an order entered by the district court on October 6, 1992 in which which the court held that it would not consider any further submissions by Mrs Polyak to relitigate any issue regarding the parties or property involved in the partition sale December 9, 1992, the district court modified its previous order:

> The Clerk is directed to stamp received with the date received, any papers submitted by Mrs Polyak to reopen this case

to amend any pleadings in the case,for re hearing or other en banc or otherwise, to set aside any pleading in any previous ruling for a new trial,or any other similar papers submitted in an attempt to relitigate this or any issues therein.The Clerk is further directed not to docket any such papers.Finally the clerk is directed to place such papers in the file in this case. No action will be taken by the the Court on any such papers...Provided however, that Mrs Polyak should submit any appeal fee in conjunction with any appeal in this case,the Clerk is directed to accept any such fee.

In her brief on appeal,Mrs Polyak asks why this court affirms the district court's intentional discrimination against federal rights to United States Department of Agriculture federally alloted burley tobacco quota ...Second she asks whether all of the decisions regarding her family's farm conflict with a Ninth Circuit Davis v City and County of San Francisco 976 F 2d 1536 (9th Cir 1992) rehg. denied in part, vacated in part, 984 F 2d 345(1991).

Upon review, we find no error of the district court.This court has expressly approved the practice of a district court requiring profilic and vexatious litigants to obtain leave of a court before any further complaints will be acceptedfor filing.Filipas v Lemons 835 F 2d 1145,1146(6th Circuit 1987). Mrs Polyak has caused over fiftyactions to be considered by this court on appeal. That number is evidence of the volume of prolific and vexatious litigation faced by the district court.Accordingly, it can not be said that the district court in any way abused its discretion when it denied Mrs Polyak petition for rehearing en banc.

Additionally, a review of the long history of Mrs Polyak's litigation reveals that she is once again seeking to relitigate the partition sale of the family's farm.Although she is claining unconstitutional deprivation of a property interest her claim is nothing more that a re-

cycled argument that could have been raised in 1976during the property's partition.The same deprivation of "tobacco allotment" has been argued on appeal at least four timess, and sanctions against Mrs. Polyak were imposed in Case NO. 89-5496 and No. 91-5655/5656/5657which asserted that her numerous cases be reopened on the basis of"NEW EVIDENCE" .Affording the same res judicata effect to the Tennessee state court judgment as would the Tennessee courts Migra v Warren City School Dis. Bd. of Educ. 465 U.S. 75(1984) it is submitted the doctrine of res judicata clearly bars Mrs Polyak's attempt to relitigate the state court judgment since Tennessee law res judicata bars consideration of all claims which were or cor reasonably could have been litigated by the parties in the state court action American Nat'l Bank and Trust Co. v Clark 586 S.W. 2d 825 826-27(Tenn.1979);Grange Mul.Casualty Co v. Walker 652 S.W. 2d 908 909 Tenn Ct App.1983).

Finally, with respect to Mrs Polyak's

specific allegations of error set forth in her brief,we note that Davis v City and County of Sna Francisco 976 F 2d 1536(9yh Cir 192) reh'g denied in part vacated in part 984 F 2d 345(1993) the Nineth Circuit held that the Civil Rights Act of 1991 applied retroactively. However, as Davis court noted on p. 1552 our circuit has held that the Act does not apply retroactively See Vogel v City of Cincinnati,959 F 2d 594(6th Cir) cert denied 113 S. Ct 86(1992

Accordingly, the district court's order dates October 6, 1992 is hereby affirmed pursuant toRule 9(b)(3) Rules of the Sixth Circuit. Mrs Polyak's suggestions that the case be considered en banc is denied and no further petitions for reconsideration or for rehearing en banc will be co accepted by this court.The Clerk is directed to issue mandate immediately Double costs will be assessed for this vexatious and frivolous appeal.

ENTERED BY ORDER OF THE COURT
Signed Leonard Green Clerk

No. 92-6530
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED AUG 13 1993

FRANK HULEN AND WILMA LESNANAKY
Plaintiffs-Appellees

v

EARLENE POLYAK

BEFORE: MARTIN and SUHREINRICH, Circuir Judges and WELLFORD, Senior Circuit Judge

This pro se Michigan litigant,EArlene Polyak, appeals from an order of the district court denying her petition for rehearing en banc entered on the docket on October 6,1992. This case has been referred to a panel of the court pursuant to Rule 9(a) Rules of the Sixth Circuit. Upon examination this panel unanimously agrees that oral argument is not needed Fed.R.App. 34(a).

The district court's order dated October 6,1992 ordered that no further submissions by Mrs. Polyak would be considered by the district court.More specifically, the order directedthe Clerk to file stamp,but not docket, any papers submitted by Mrs Polyak to reopen,

to amend any pleadings for rehearing en banc or otherwise in this case. The court ordered that is Mrs Polyak submitted any papers with a filing fee or other funds, the Clerk was directed to return the money to Mrs Polyak with out the necessity of order. In the order dated December 9,1992, the district court amended October 6, 1992 order slightly ,but the sum and substance of the order remained the same.

Upon review, we find no error. This Court has expressly approved of a district court requiring prolific or vexatious litigants to obtain leave of the court before any further complaints will be accepted for filing, Filipas v Lemons 835 F 2d 1145(6th Cir 1987). Mrs Polyak has caused over fifty actions to be considered by this court on appeal. That number is evidence of the volume prolific and vexatious litigation faced by the district court. Accordingly, it cannot be said that the district court in any way abused its discretion when it denied Mrs Polyak's petition.

Futhermore, is is abundantly clear that Mrs Polyak seeks to relitigate issues decided in the state courts of Tennessee. Although she is claiming the unconstitutional deprivation of a property interest, her claim is nothing more than a recycled argument that could have been raised in 1976 during property's partition..The sane deprivation of a tobacco allotment argument has been argued on appeal at least four times and sanctions against Mrs Polyak were imposed in Case No.89-5496and Nos 91-5655/5656/5657,which asserted that her numerous cases be reopened on the basis of new evidence.

Affording the smae res judicata effect to the Tennessee state court judgment as would the Tennessee Courts Migra v Warren City School Dist. Bd of Ed,465 U.S. 75(1984 we hold that the doctrine of res judicata bars consideration of all claims which were or reasonably could have been by the parties in the same court action.American Nat'l Bank

and Trust Co. v Clark 586 S.W. 2d 825 826-27 (Tenn. 1979) Grange Mut Casualty Co. v Walker 652 S.W. 2d 908 909 10(Tenn. Ct App. 1983).

Accordingly, the district court's order dated october 6, 1992 is hereby affirmed pursuant to Rule 9(b)(3) Rules of the Sixth Circuit. Mrs Polyak's suggestion that the case be considered en banc is denied. Furthermore, it is hereby ordered that no further petitions for rehearing or other submissions by Mrs Polyak in this case will be accepted by the Clerk is directed to issue mandate immediately. Double costs will be assessed for this vexatious and frivolous appeal.

ENTERED BY ORDER OF THE COURT

Signed Leonard Green

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

August 17, 1993

Juliet Griffin
Middle District of Tennessee at Nashville
801 Broadway
Nashville, Tennessee 37203

RE: 92-6345 92-6528
Polyak v Stack
District Court No. 85-00125

Dear Clerk:

Enclosed please find
The mandate issued in the above case.

Please be advised that the certified record was never sent to this court on appeal.

very truly yours,
Leonard Green
Diane Schaur signature

cc: Earlene Polyak
Mr. Thomas Stack
Mr. Leland Bruce Peden

Nos.92-6345/6528

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED AUG 17 1993

EARLENE POLYAK

Plaintiff-Appellant

v

THOMAS STACK AND HENRY
HENRY & STACK

BEFORE: MARTIN and SUHRINRICH Circuit Judges and WELLFORD Senior Circuit Judge.

This pro se Michigan litigant Earlene Polyak appeals from the orders of the district court dated September 23, 1992(Case No. 92-345 and October 6, 1992(No.92-6528) These cases have been referred to a panel of the court pursuant to 9(a) Rules of the Sixth Circuit.Upon examination, this panel unanimously agrees that oral argument is not needed Fed. R.App. P 34(a.

In case no. 92-6345, Mrs Polyak is appealing 1992 in which the court denied her Motion Set Aside Final Order and Schedule Jury Trial on New Evidence and New Law and Issue Restraining order Against Transfer of Constitutional and Federal Rights and Interests." In Case No.

92-6528 Mrs Polyak is appealing from the district court order dated octeber 6, 1992 in which the the court held that it would not accept any further submissions by Mrs Polyak.

Upon review we find no error. With regard to Case No.92-6345, Mrs Polyak cannot possibly contort a claim of legal malpractice into a deprivation of her alleged constitutitutional rights. Neither Mr. Stack nor his law firmim is an actor as required under 42 U.S.C. 1983 Flagg Bros v Brooks 436 U.S. 149 155-57 (1978 Second, in case No. 92-6528 the district court acted well within its discretion by ordering that no further submissions with regard to this litigation would be considered. This court has expressly approved the proctice of a district court requiring prolific and vexatious litigants to obtain leave of the court before any further complaints will be accepted for filing. Filipas v Lemons 835 F 2d 1145,1146(6th Cir 1987)..Mrs Polyak has caused over fifty actions to be considered by this

court of appeal.That number is evidence of the volume of proglic and vexatious litigation faced by the district court.Accordingly, it cannot be said that the district court in any way abused its discretion by ordering that no further submissions would be considered.

Accordingly, the orders of the district court dated September 23, 1992, and October 6, 1992 are hereby affirmed pursuant to Rule 9(b)(3) Rules of the Sixth Circuit.Mrs Polyak's suggestion that the appeal be considered en banc is denied.Futhermore, no further submissions by Mrs Polyak with regard to petition for rehearing or reconsideration will be accepted by this court, and the Clerk is ordered to issue the mandate immediately.Double costs will be assessed for this vexatious ans frivalous appeal.

ENTERED BY ORDER OF THE COURT

Signed Leonard Green,Clerk

Nos. 92-6347/6525

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED AUG 13 1993

EARLENE POLYAK

Plaintiff-Appellant

v

FRANK HULEN AND WILMA LESNANSKY

BEFORE: MARTIN and SUHRHEINRICH, Circuit Judges and WELLGORD Senior Circuit Judge

Earlene Polyak, proceeding without benefit of counsel appeals from the order of the district court denying her Motion to Set Aside Final Order and Schedule Jury Jrial on NEW EVIDENCE and NEW LAW and Issue Restraining Order Against Transfer of Constitutional Possessed Rights and Interests.This appeal is No. 92-6347. Mrs Polyak also appeals from the order denying her petition to rehear en banc(sic dinjunction against filing on October 6, 1992) No. 92-6525. These appeals have been referred to a panel of the court pursuant to Rule 9(a) Rules of the Sixth Circuit. Upon examination, it is unanimously

agrees that oral argument is not needed Fed. R. App. P. 34(a).

Mrs Polyak along with her sister Wilma Lesnansky and her brother Frank Hulen inherited a farm in Tennessee jointly as tenants in common, Mrs Polyak's siblings sought and obtained a partition sale of the farm. Mrs Polyak objected to the manner in which the farm was divided and instituted state court states court prate court challenges to the partition in 1976.Failing to obtain the resultshe desired in states court, Mrs Polyak suoght federal review of the state court partition action.The district court initially dismissed this case and the court later denied two motions underlying these appeals.

Seeking the deed to her retirement home and compensation for restraining from the full rights to her properties since initial settlement in agreement to divide property in 1976 Mrs Polyak asserts on appeal that the district court denied her due process of law and abused its discretion .The basis for her argument

seems to be a district court order dismissing one of her cases for lack of prosecution.

A trial court's decision regarding trial procedure or control of the docket is usually submitted to the court's discretion and it is reviewed for discretion only.Pierce v Underwood 487 U.S. 552 558.59 1988). Upon review we find no abuse of discretion.

Mrs Polyak has previously argued in this court that the district court abused its discretion by dismissing two of her complaints.In Case No. 87-6267 Hulen and Lesnansky v Polyak, Mrs Polyak appealed from the district court's judgment dismissing her complaint case No.84-0082.Similarly in Case No. 87-6268 Polyak v Hulen and Lesnansk, Mrs Polyak appealed on the same grounds and the same reasons On June 16, 1988 a panel of this court affirmed the judgment of the district court.The district court did not abuse its discretion when it originally dismissed these cases(as evidenced by affirminaance)nor did it abuse its discretion by ordering on September 23, 1992,

and October 6, 1992 that no further filings with regard to this litigation would be considered by the court.

Clearly, Mrs Polyak seeks to relitigate issues concerning the partition of Tennessee property which issues were already the subject of a final destate court judgment.Although she is claiming the unconstitutional deprivation of a property interest her claims is nothing more that a recycled argumnet that could have been raised in 1976.during the property's partition.The same deprivation of a tobacco allotment argument has been argued at least four times.and sanctions against Mrs Polyak were imposed in No.89-5496 and No.91-5655 which asserted that her numerous be reopened on the basis of new evidence.Affording the same res judicata effect to the Tennessee Court judgment Migra v Warren City School Dis. Bd Of Ed 465 U.S. 75(1984) the doctrine od res judicata clearly bars Mrs Polyak's attempt to relitigate the same court judgment since under Tennessee law res judicata bars

considerationof all claims which were or reasonably could have been litigated by the parties in the state court action.American Nat'l Bank and Trust Co. v. Clark 586 S.W. 2d 825, 826 827(Tenn 1979). Grange Mut.Co. v. Walker 652 S.W. 2d 908 909-10(Tenn.App. 1983).

Accordingly, the orders of the district court on September 23, 2992, and october 6, 1992, are hereby affirmedp p pursuant to Rule 9(b)(3) Rules of the Sixth circuit. Mrs Polyak suggestion for the court to consider her appeal en banc is denied. and no further petitions for reconsideration or for rehearing en banc will be accepted by the court.The Clerk is hereby directed to issue the mandate immediately.Double costs will be assessed for this vexatious and frivolous appeal.

ENTERED BY ORDER OF THE COURT
Signed Leonard Green, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

August 17, 1993

Earlene Polyak
4063 Hood road
Palm Beach Gardens, Fl 33410

re; 93-5029
Polyak v Madigan
District Court No.92-0074

Dear Mrs Polyak:

This letter is to advise that your motion to recall the mandate has been denied by the panel that considered your appeal.

Yours very truly,
Leonard Green
signed Yvonne Henderson

cc: Ernest Williams
Robert Watson

No. 93-5029

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

EARLENE POLYAK FILED JAN 29 1993

Plaintiff-Appellant

v

EDWARD MADIGAN,Secretary
U.S. Department of Agriculture,
JEFF BEECHAM, JEFF HUDSON AND
BOBBY TIDWELL ET AL.

BEFORE BOGGS and SILER, Circuit Judges and
JOINER Senior District Judge

This matter has been referred to a panel of the court. A review of the document before the court indicates that Earlene Polyak filed a civil rights action on January 10, 1992,and summons issued. Orders were entered dismissing defendants , named in amended complaint,granting the United States an extension of time,and reassigning the case to Judge Echols .An order was entered November 12, 1992,,denying reconsideration of the extension of time,denying motion to forward records and directing plaintiff to notify the court when all appellate proceedings by direct appeal, mandamus or otherwise were resolved at which time the defants time to answer or otherwise plead would

begin to run. Plaintiff filed a motion for rehearing on December 1 which was denied on December 11, 1992. Plaintiff appealed on December 28, 1992.

The court lacks jurisdiction in this appeal. No final appealable order has been entered. Knight v Pepsi Cola Bottlers of Akron Ohio 850 F. 2d 1155,1159(6th Cir) 1988). Ford Motor Co. v Transport Indem Co. 795 F ed 543 (6th Cir. 1986). In addition no order has been certified under 28 U.S.C. 1292 (b)of FedR. Civ P 54(b). Budinich v Becton Dickinston & Co 486 U.S. 196 203(1988) Firestone Tire & Rubber Co, v Risford 449 U.S. 368 379(1981).

It is ordered that the appeal be and it is hereby dismissed for lack of jurisdiction Rule 8(a) Rules of the Sixth Circuit

ENTERED BY ORDER OF THE COURT

Signed Leonard Green

ISSUED AS MANDATE 7/19/93

In the United States District Court, Columbia Division, Nashville,Tennessee.

Earlene Polyak v Jim Hamilton,Individually and in severalty, as State Judge et al., 1:85-0116.

Buford Evans & Sons v Earlene Polyak(counter-claim) 1:85-0120.

Earlene Polyak v William boston and Boston Bates & Holt 1:86-0036.

Earlene Polyak v thomas Stack and Henry Henry & Stack 1:85-0125.

Frank Hulen and Wilma Lesnansky v Earlene Polyak1:87-0075.

Earlene Polyak v Frank Hulen and Wilma Lesnansky 1:84-0083.

Frank Hulen and Wilma Lesnansky v Earlene Polyak 1:84-0082.

Denied; all of the above on October 6, 1992.

Earlene Polyak v Edward Madigan, U.S. Secretary of Agriculty - 3-92-0074.Denied Dec. 12, 1992.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

BUFORD EVANS

DEC 30 1991

No. 1:85-0120

v

EARLENE POLYAK

ORDER

In accordance with the memorandum ebtered, and insofar as plaintiff seeks to reopen the above styled case, her request to reopen this case is denied.

The Clerk is directed to file stamp a copy of the documents with the date of December 20, 1991, the date of this receipt, make entries on the docket reflecting the filing of these copies, and place the copies in the file in the above styled case.

It is so ordered.

Signed Thomas Higgins
United States District Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

BUFORD EVANS & SONS FILED DEC 12 30 91

v

EARLENEPOLYAK COUNTER-CLAIM

MEMORANDUM

On December 20, 1991 plaintiff submitted a Motion to Set Aside Order on NEW EVIDENCE and a Complaint and Jury Trial Demand with attachments (sic NEW EVIDENCE). On those papers, plaintiff captioned the case with style Earlene Polyak v Jim Hamilton, Judge, Individually and Judicial Capacity, and the Circuit Court of lawrence county et al., She listed two case numbers 1:85-0116 which is case number Polyak v Hamilton, and 1:85-0120, which is no above.[2] In the body ot the her paper, she indicates she is joining these two cases(sic case 1:85-0120 was joined under 28 U.S.C. 1441(c) to 1:85-0116.The cases are seprarate cases in this Court;they have not been consolidated otherwise joined. To the extent Mrs Polyak intends to submit these papers in both cases , the court is issuing sep-

arate memorandaand orders to correspond to two separate cases.

The above case was an attempt to remove a state court action(sic counter-claim) to this Court.By order entered November 27, 1985, the onorable Thomas A. Wiseman dismissed the case and remanded it to the Circuit Court of Lawrence County, Tennessee. In that order, Judge Wiseman held that removal (sic counter-claim) was not proper, because it was filed thirty days(when state court denied right of appeal Rule 3 FrcivP after her receipt of initiial pleading filed in state court. By order ay 2, 1986, Judge rescued himself from all cases filed by rs Polyak.

By order entered September 29, 1987, the Court set status conference in October 20, 1987. By motion filed October 20, 1987 plaintiff sought a continuance of status conference until April of 1988, which court denied the order entered October 27, 1987. When plaintiff failed (sic plaintiff was in Cardiac Unit of University of alabama and sent Telegram 10-27-87) to appear

There is no justification for reopening the at this point, in light of the complete lack of compliance with the removal statute 28 USC 1446 (sic 28 USC 1441(c).

To the extent that plaintiff seeks to re-open the above case the request is denied.

An appropriate order will enter.

Signed Thomas Higgins

2Next to case Number 1:85-0120 is (10647) in paraenthisis This number does not have relationship (sic Buford Evans & sons v Earlene Polyak denied forwarding records/a-ppeal in state court) On page 2, she stat-tethat Judge Hamilton....on December 26, 1984,denied forward records for appeal on on November 7, 1985 No....10647
It appears that this number relates to a state court order.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EARLENE POLYAK

FILRED 12-31-91

v

No. 1:85-0116

JIM HAMILTON ET AL.,

ORDER

In accordance with the memorandum entered plaintiff's request to reopen the above-styled case is denied.

The clerk is directed to file stamp the the original documents with the date of December 20, 1991, the date of the receipt, docket the papers in the above styled case.The Clerk is further directed to return plaintiff the $120.00 check and a copy of her papers with the file stamp dated December 20, 1991.

It is ordered.

Signed Thomas A. Higgins

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EARLENE POLYAK

FILED DEC 31 1991

v

JIM HAMILTON ET AL.

MEMORANDUM

Not to be deterred, plaintiff has initiated another attempt to reopen and relitigate a case that has been adjudicated in this Court. On December 20, 1991, Plaintiff submitted a Motion to set aside Order on New Evidence and Schedule Jury Trial and a complaint and Jury Trial Demand with attachments.Again, Plaintiff hsa submitted a $120.00filing fee, although it appears that she desires to reopen the above-styled case, rather that institute a new action.

In the above styled case, filed November 8, 19 5, plaintiff sought to enjoin the sale of Lawrence county property by an action against the state court judge eho heard the state partiti tion suit. The case was dismissed by the Honorable Thomas A. Wiseman on November 13, 1985,

as being frivolous,malicious and harassing.That order was appealed to and affirmed by the Court of appeals for the Sixth Circuit and certiorari to the United States supreme Court was denied.

Plaintiff attempts to inject into a lawsuit the transfer of tobacco allotment on Lawrence County property,of which she was not aware of until 1990,after this case was dismissed.No amount of new evidence can change the basic proposition that this action cannot be maintained as asserted against a state court judge and a state court.

Plaintiff's documents will be filed in the above-styled case. Her request reopen this case is denied.

Signed Thomas Higgins

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EARLENE POLYAK

FILED 12 30 91

V

WILLIAM BOSTON et al.

ORDER

In accordamce with the memorandum entered the clerk is directed to file stamp the Motion to Set Aside Order, Complaint and Deand for Jury Trial Demand, and accompanying document(sic exhibits of new evidence) as of December 17 1991, return a copy to plaintiff with December 17 file stamp, and place them in the file for the above-styled case. The clerk is further directed to return the 120.00 check to plaintiff.

The motion to reopen this case is denied.

Signed Thomas Higgins

Note: At September 15, 1989 pretrial conference, the Court dismissed this case from the bench. A written order dismissing the action was entered September 18, 1991. And robert Boston submitted two trnascripts to the Court.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

EARLENE POLYAK

FILED 12 31 91

v

1-86-0036

WILLIAM BOSTON ET AL.,

MEMORANDUM

In yet another case, plaintiff attempts to relitigate a case already adjudicated (sic no no trial) by this court. In latest attempt, she has submitted a motion to set aside the order entered on September 15, 1989, and September 18, 1991, dismissing the case and a complaint and jury trial demand with accompanying exhibit (sic New Evidence).

As with previous submittions it is not clear whether Mrs. Ployak intends to submit a new action or submit documents in the same case. Inasmuch as she has submitted a giling fee it would appear that she is attempting to file a new action. In as much as she indicates on civil cover sheet that she intended that this action br einstated or reopened, and inas

much as she submitted a motion to set aside the the dismissal of case, the court will treat the papers as tendered in the above stylled case.

Although the Court would hope that plaintiff would discontinue her attempts to reopen cases previously adjudicated (sic no trial) the court is realistic in considering that bt be a vain hope. For any future submissions plaintiff is advised that it is not necessary to submit a filing fee unless she intends to institute a new action. Even closed sases need not be acconpanied by a filing fee.

The above case was dismissed by order entered September 18, 1989, after a scheduled pre trial conference on September 15, 19889, at which plaintiff failed to attend. That order was appealed to the to the court of appeals for the Sixth circuit and affirmed.

at that hearing the Court emphaiszed that the September 15, 1989 date of pretrial conference had been scheduled since June 27, 1989, and reconfirmed in order entered on August 31, 1989. On September 14, 1989, Plaintiff had

filed a motion to continue the pretrial conference, alleging health problems. Alt ough she failed to attach verification of health problem she indicated that she would make the details of her medical treatment available on October 19, 1991. the scheduled date of the jury trial. it appeared to the Court that plaintiff anticipated a recovery between the time of pretrial conference and the date of date of jury trial. The Court stressed the importance of a final pretrial conference prior to the trial date. the Court found that plaintiff's motion to continue the pretrial conference was not well taken and because palintiff was not in attendance the case was dismissed.

The court will not now permit plaintiff to reopen a case that was dismissed for her failure to attend a scheduled pretrial conference.

theClerk is directed to file documents and return filing fee of `120.00 to plaintiff.

The motion to set aside the final order is denied.

Signed Thomas Higgins District Judge.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EARLENE POLYAK FILED OCT 6 1992

v

1:84-0082

THOMAS STACK

ORDER

The court has reached its limit with the plaintiff in this case and in other cases brought by Mrs. Polyak in this Court. This case has long been dismissed. there is no justiic-ation for plaintiff's continued efforts to relitigate what has already been litigated (no jury trial only directed verdict).There is no need for the court to review any further sub-missions by the plaintiff.The Court will not consider any further submissions by the plain-tiff to relitigate this case.

The clerk is directed to stamp file any papers submitted by the plaintiff to reopen this case, to amend any pleadings, to set aside for rehearing en banc or otherwise for injunction relief for reconsideration of any previous ruling for a new trial,or any similar papers

No action will be taken by the Court on any papers. If Mrs Polyak submits filing fee or any funds, the clerk is directed to return such funds to her without the necessity of an order of this Court. Provided, that should Mrs. Polyak submit any appeal fee in conjunction with any appeal in this case, the Clerk is directed to accept any such appeal fee.

Signed Thomas A. Higgins

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

FRANK HULEN AND
WILMA LESNANSKY

FILED OCT 6 1992

1:84-0082

v

EARLENE POLYAK

ORDER

On September 22, 2992, counsel for Frank Hulen and Wilma Lesnansky have filed a response to Mrs Polyak's Motion to Set Aside Final Order and Schedule Jury Trial on NEW EVIDENCE AND NEW LAW and ISSUE RESTRAINING ORDER AGAINST TRANSFER OF CONSITUTIONAL POSSESSED RIGHTS AND INTER ESTS. By order entered September 23, 1992 this court denied Mrs Polyak's above motion(sic COMPLAINT AND DEMAND FOR JURY TRIAL FOR RELIEF IN DAMAGES).Although filed before entry of order , the response did not come to this court's attention UNTIL AFTER THE ENTRY ORDER.

In his response MR BOSTON asks the court to sanction Ms. Polyak for scandalous and absolutely false insinuation that he in any manner threatened Mrs. Polyak's life. the court is sum-

pathetic to Mr. boston's outrage. As Mr. Boston can well imagine,sanctioning Mrs Polyak as appro priate as that may be would inevitably spawn add ddition̊al ancillary litigation, both in this court and in appellate courts--aresult contrary to this Court's efforts to curtail further liti-gation.

Ms. Polyak is admonished ordered and direc ted to refrain from any future assertions that are not grounded in fact.Should Mrs. Polyak fail to heed this admonition, order and direc-tion the court will refer this matter or any related Polyak litigation to the United States Attorney for the purpose of instituing criminal proceedings against Mrs Polyak,

the court also in receipt of a PETITION FOR REHEARING EN BANC filed by Mrs Polyak on October 2, 1992 addressed to the Chief Judge (Honorable Thomas A Wiseman sic). In this submi ssion Mrs. Polyak responds to mr boston's res-ponse ans seeks a rehearing by the entire court of this Court's order September 23, 1992, in which the Court denied her MOTION TO SET ASIDE

FINAL ORDER AND SCHEDULE JURY TRIAL ON NEW EVIDENCE AND NEW LAW(sic PUBLIC LAW 102-166) AND ISSUE RESTRAINING ORDER AGAINST TRANSFER OF CONSTITUTIONAL AND FEDERAL RIGHTS AND INTERESTS(Doc ent. 54,55.58).There is no authority for en ban

The court's also share shares Ms. (sic Mr. Boston's) frustrations with the relentless attempts by Mrs Polyak to relitigate what has already been adjudicated (sic no jur trial) and tn thrawt the efficient operations of the Court this case has long since been dismissed.There is no justification for her continued efforts to relitigate (sic no jury trial) what has already been litigated(sic no jury trial) in the court. There is no need for this court to review any further submissions by Mrs Polyak in this case.

the court will not consider any further submissions by Mrs Polyak to relitigate this case. The clerk is directed to file stamp any papers submitted by Mrs Polyak to reopen the case, to set aside anyprevious rulings in this case for injunctive relief,for reconsideration of any previous ruling in this case, for a new

trialor any other similar papers submitted in an attempt to relitigate this case or any issues.No action will be taken by the court on any such papers, If Mrs Polyak submits a filing fee or any such papersthe clerk is directed to return such funds to her without the necessity of an order of the court. Should Mrs Polyak submit any appeal fee in conjunction with any appeal in this case the clerk is directed to accept any such fee.

Signed Thomas Higgins

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

FRANK HULEN AND WILMA LESNANSKY

v

FILED SEPT 23 1992
1:84-0082

EARLENE POLYAK (counter-claim

ORDER

Ms. Polyak has again attempted to relitigate this case by her most recent submission, entitled MOTION TO SET ASIDE FINAL ORDER AND SCHEDULE JURY TRIAL ON NEW EVIDENCE AND NEW LAW AND ISSUE RESTRAINING ORDER AGAINST TRANSFER OF CONSTITUTIONAL AND FEDERAL RIGHTS AND INTERESTS received by the Clerk on September 18,1992.

This submi--ion is not the first time Mrs. Polyak has attempted to reopen this case.By order entered on March 21, 1991 her motion to set aside the judgment (no jury trial).

Ms. Polyak initiated this case in 1984 as an attempt to remove a state court action from the Chancery Court of lawrence county,Tennessee By order entered October 26, 1984 the court dismissed the removal petition as untimely(SIC THIS CASE NEVER TO STATE COURT) The judgment

is final(sic no jury trial) No amount of new evidence can alter the fact that the original removal petition was not timely filed(sic in 1984 District Court Court of Appeal to the state 42 usc 1443 (1)(2).

The MOTION TO SET ASIDE the final order in this case to schedule jury trial and to issue restraining order is denied. The Clerk is directed to file stamp the motion with date of receipt September 18, 1992, docket the motion and accompanying material(sic copies of fraud in burley tobacco in 9187-1988- 1990-1990 and violation of criminal code in 1983)and place all such papers in case file. The Clerkis further directed to return `120.00 filing fee to Mrs Polyak by certified mail.

Signed thomas Higgins

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EARLENE POLYAK

v

FILED MARCH 31 1991

THOMAS STACK AND
HENRY HENRY & STACK

ORDER

In accordance with the memorandum entered the Clerk is directed not to file the complaint submitted by the plaintiff as a new action,to return the $ 120.00 file fee,to file stamp the complaint and accompanying papers with the date and place them in the file of above styled case. To extent that plaintiff that seeks to amned the original complaint filed in this case or other wise reopen the case, such request is denied. Plaintiff's motion for protective order is denied.

Signed Thomas A. Higgins

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EARLLENE POLYAK

FILED MARCH 1991

v

THOMAS STACK

MEMORandum

Plaintiff has submitted an amended complaint and Demand for Jury Trial and accompanying documents. although the document submitted appears to be an attempt to amend the closed case, plaintiff tendered $ 120.00 filing fee.

A final judgment in this case was entered on June 6, 1988,upon Defendant's motion for directed verdict at the conclusion of plaintiff's case in chief. Plaintiff filed a motion for a new trial which was denied June 17, 1988.Plaintiff then appealed.During the pendency of the appeal,plaintiff filed an objection to Court's order,which the Court treated as a Rule 59(e) motion and denied it on December 2, 1988.the Court of appeals affirmed the judgment of this Court.

Not to be deterred,plaintiff submitted a

a complaint on January 12, 1990 asking that the case be reopened.By order entered January 22, 1990 the clerk directed the Clerk not to file the complaint and refused to reopen the case. Plaintiff appeled that order.Plaintiff attempted to appeal directkly to the United States Supreme Court, but was informed that the Supreme Court had no jurisdiction to file her appeal.

On January 8, 1991,plaintiff filed a new motion for a hearing en banc to set aside the directed verdict entered against her on June 6, 1988. by order of January 11, 1991 the Court denied plaintiff's motion.

In Plaintiff 's instant papers, she asserts new evidence pf negligence and malfeasance because a burley tobacco allotment was transferred without her consent causing her financial loss and new evidence of disability in that she was forced to prosecute her case in state court and in this court while she was in ill health.

Despite the efforts of this court to inform her of the preclusive of resjudicata and the finality of judgment,plaintiff seems to

continue to believe that she can refile the same case at any point.In fact, Plaintiff states on page 2 of her amended complaint that she has option of suing "from time to time" when there is a new continued and recurrent wrong.Plaintiff has amply demonstarated her belief in this proposition by her determination to file inumerable complaints based essentially on the same set of facts involving the partition sale of land in Lawrence county,ordered by Tennessee state court.

This Court's order of November 13, 1985, in Polyak v Hamilton applies to enjoin plaintif from filing any further action in this court regarding the partition sale of the Lawrence county property without the Court's permission. This most recent filing must be treated in the same manner as plaintiff's January 12, 1990 submission.

Signed thomas A. Higgins

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EARLENE POLYAK FILED SEPT23 99

V

1:84-0083

FRANK HULEN AND WILMA LESNANSKY

ORDER

Ms Polyak has again attempted to reliti gate (sic no jury trial) this case by her most recent submission) Motion to Set Aside Final Order and Schedule Jury Trial on NEW EVIDENCE and NEW LAW and issue restraining order against transfer of Consitutional Rights and and Federal Rights and Interests received on September 18, 1992.

The original complaint was filed on October 18, 1992. The Court dismissed the Complaint on December 3, 1984. After all of the cases brought by Mrs Polyak was reassigned to the underassigned, a status conference was scheduled for October 30(sic October 28, 1987. at which Plaintiff failed to appear. This case was dismissed for failure to prosecute

(sic Plainitiff in Cardiac Unit of University of Alabama and Western Union verifies telegram October 27, 1987 at 11:00 a.m.).

This submission is not the first time Mrs Polyak has attempted to reopen case. On February of 1991, the plaintiff filed a motion to set aside final order. by order entered March 21,1991 her motion was denied,The rational for denying February 1991 motion applies. The plaintiff asserts that several defendants are necessary defendants in Polyak v Madigan 3-92-0074 currently pending before the Court. these assertions should be addressed in Polyak v Madigan.

The motion to set aside the final order in this case to schedule jury trial and to issue restraining order is denied.The Clerk is directed to file stamp the motion September 18, 1992 docket the motion and accompamying material NEW EVIDENCE of FRAUD .The Clerk is directed to return 120.00 filing fee to Mrs Polyak by certified mail.

Signed thomas Higgins

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

FRANK HULEN AND
WILMA LESNANSKY

FILED OCT 6 1992

v

No. 1:87-0075

EARLENE POLYAK(counter-claim

ORDER

The Court is in receipt of a Petition for Rehearing En Banc filed by Mrs Polyak on September 26, 1992 addressed to the Chief Judge.By this submission, Mrs Polyak apparently seeks rehearing by the entire Court,in which the Court denied her Motion to sEt Aside Final order and Schedule Jury Trial on NEW EVIDENCE AND NEW LAW and Issue Restraining order against Transfer of Consitutional possessed Righs and Interests. There is no authority for an enbanc hearing, therefore the petition is denied.

The Court has reached its limits with Mrs. Polyak in this case and in other cases brought by Mrs Polyak in this court.This case has long since been dismissed. There is no justification for her continued efforts to religigate(sic no

jury trial)what has already been litigated(sic no jury trial) in this Court. There is no need need for this court to review any furthersubmissions by Mrs Polyakin this case.The Court will not consider any further submissions by Mrs Polyak to relitigate(sic no jury trial).

The Clerk is directed to stampfile any papers submitted by Mrs Polyak to reopen this case, to amend any pleadings, for rehearing, en banc or otehrwise for injunctive relief,for reconsideration of any previous ruling for a new trial, or any othe similar papers submitted in an attemptto relitigate (sic no jury trial) this case or issues therein. If Mrs Polyak submits afiling fee or any any funds with such papers the Clerk is directed to return such funds to her without necessity of an order from the court. Should Mrs Polyak submit any appeal fee in conjunction with any appeal the clerk is directed to accept any such appeal appeal fee.

Signed thomas A. Higgins.

UNITED STATES DISTRICTCOURT
MIDDLE DISTRICT OF TENNESSEE

FRANK HULEN AND
WILMA LESNANSKY
v

FILED OCT 6 1992

1: 84-0087

EARLENE POLYAK(counter-claim)

ORDER

The Court has reached its limit with plaintiff and in other cases brought by Mrs Polyak in this court.this case has long since been dismissed.there is no justification for plaintiff's continued efforts to religate(sic no jury trial) in this Court.There is no need for the Court to review any further submissions by plaintiff.The Court will not consider any further submissions by plaintiff to relitigate(sic no jury trial)

The Clerk is directed to stamp file any papers (sic New evidence submitted by the plaintiff to reopen this case,to amend any pleadings in the case, for rehearing, en banc or otherwise to set aside any previous rulings for an new trial or any similar papers submitted in a attempt to relitigate(sic no jury trial) this case or the issues therein.No action will

be taken by the Court on such papers(sic NEW EVIDENCE If the plaintiff submits a filing fee the Clerk is directed to return such funds without the necessity of a Court order. Should the plaintiff submit any appeal fees in conjunction with any appeal in this case the Clerk is directed to accept any such fee.

Signed thomas Higgins

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

EARLENE POLYAK

V

EDWARD MADIGAN, Secretary of
U.S. Department of Agriculture

FILED DeC 28 1992
(Dk No.25 EOD 12/11/92
No 3-92-0074

NOTICE OF APPEAL

Plaintiff gives notice of appeal to the abuse of discretion in which the Honorable Thomas A Higgins aua spont removed necessary Defendants in the intentional discrimination against federal rights in the taking Farm V 1754 with United States Department of Agriculture alloted burley tobacco quota pursuant to Civil Rights Act 1964 Title VI VII under which the Agricultural Act of 1938 prohibits discrimination against disability race sex age and national origin as amended in 42 U.S.C. 1981 for the right of "(a)" party to sue in Public Law 101 102

Plaintiff believes Judge higgins has again ruled on Honorable Thomas Wiseman's order on November 13, 1985, enjoining pro se from filing further complaints regarding

her property in Tennessee, and has transferred this case in prejudice without consent to a magistrate for the second time in disregard of 28 U.S.C. 636(c)(1) and denied rehearing in order 12/11/92.

Plaintiff seeks relief in jury trial on all issues and the denial to file motions to correct docket sheet to the Court of Appeals.

On the 22nd of December, 1992.

Respectfully submitted,
Earlene Polyak(407) 527
403 Hood Road -3564
Palm Beach Gardens,
Florida 33410

I certify that a true copy of this pleading has been mailed to Ernest Williams, U.S., Attorney, Nashville, Tennessee 37203
Earlene Polyak

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

FILED DEC 11, 1992

EARLENE POLYAK

V

EDWARD MADIGAN et al.,

ORDER

Pending before the court is a "Petition for Rehearing" filed by the Plaintiff,Earlene Polyak (NO 24) After consideration of the motion and the entire record in this case, the court hereby denies the Petition for rehearing.

It is so ordered.

Signed Robert L Nicholos

12/28/92(26) Appeal by Plaintiff from Dist-Court Decision (25-1)(ks) Entry Date 12/30/ Entry 12/30/92

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

FILED 11/12/ 92

EARLENE POLYAK

Order

V

EDWARD MADIGAN et al.,

Order

In accordance the Grievance to Chief Judge filed October 25, 1992(EOD 20) in denial of motion to reconsider the Court's order on September 23, 1992(EOD No. 18), and such is denied.The objection to motion to extension of time, filed by Plaintiff on October 2, 1992(D.O.C. 19) is overuled.The motion to Forward Records for Petition for Title IV Review filed by Plaintiff on September 1,1992 (DOE No. 16) id denied.

Plaintiff is directed to file a notification with this court when all appellate proceedings, by direct appeal, by petition for writ of mandamus or otherwise, relating to issues in this case have been resolved.Once such notification is filed, defendants currently

named in the case shall, within ten thirty days answer or otherwise plead as required by Rule 12 of the Federal Rules of Civil Procedure and by this Court's order entered on October 23, 1992

Signed by Robert L Echols

Note this is the order(DOE 22), Petition for Rehearing (DOE 24) Appeal Denied (EOD 25) notice of Appeals EOD(26) Received 12/28/92, but held to enter 12/30/92 however timely within (19) nineteen days.

APPENDIX C

In the Chancery court of Lawrence County, Tennessee.

Letter from Ben Boston to Geneva Frisbee, dated April 30, 1994 marked 1974 and attached.

No. 1974 Frank Hulen and Wilma Lesnansky v Earlene Polyak.

Letter from Mr.Jeff Beecham, Agriculture Stabalization and Conservation Service United States Department of Agriculture.

U.S. DEPARTMENT OF AGRICULTURE
Agricultural Stabilization and Conservation Serv
LAWRENCE COUNTY ASCS OFFICE
826 N. Military Ave.
June 21, 1990

Dear Mrs Polyack, Phone 762-4226

Our records indicate that there has been no activity concerning the burley tobacco quota on the above farm number 3148 during the last four years. According to regulations governing burley tobacco quota, if the quota is neither grown or transferred during five year period,it will be forfeited permnately. As a result if you fail to either grow or transfer this quota in 1990 you will lose this 1946 pounds of quota permantly.

You are strongly urged to either grow or transfer this quota in 1990 to avoid it's loss. All transfers must be completed by July 2, 1990 deadline. there is abulletin board available to those wanting to post quota for transfer in the ASCS Office. This bulletin board has proven to be and effective method of contracting producers that wish to lease theri tobacco quota. If you have questions concerning the transfer

BEN:
Please Communicate
to my Clients
as underlined.
Thanks
Bd

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 91-8112-CIV -ZLOCH

FINAL ORDER OF DISMISSAL

EARLENE POLYAK
Plaintiff
v

WILLIAM BOSTON et al,
Defendants

This matter is before the Court upon the Motion to Dismiss, filed by William Boston, Boston Bates & Holt, Frank Hulen, Wilma Lesnansky, Robert Boston, Waller Lansden Dortch & Davis, and Jim Hamilton and Chancery and Circuit Courts; upon the Motion to dismiss pursuant to 12(b) FRCP(DE 4) filed by the Defendants Thomas Thomas Stack, and Henry Henry & Stack P.C.A Tennessee professional corporation upon federal Defendants Motion to Dismiss (DE 5 filed by Defendants, Jeff Beecham and Joseph Brown;and upon Federal Defendants Motion to Dismiss amended complaint and Memorandum of Law in Support threrof(DE 45) In rul ing upon these matters, this Court has considered the entire file and is otherwise advised of its premises

BOSTON BATES & HOLT

Wm Boston
Paul Bates
Charles W. Holt
Ben Boston

Ms. Geneva Frisbee:
Clerk & Master
Lawrence county Courthouse
NBU
Lawrenceburg, Tennessee 38464

Re: Earlene Polyak v Boston et al.,
Southern District of lorida
Case No. 91-8112 CIV-ZLOCH

Dear Ms. Frisbee:

Enclosed you will find a Final Order of Dismissal in this matter which my brother forwarded me and requested that I forward to you.Please do not become excited as we all know a final order of dismissal means nothing to Mrs. Polyak and there will certainly be additional pleadings to follow as long as she is alive. If you have any questions, please give me a call.

very truly yours,

BOSTON BATES & HOLT
B B
Ben boston

BB:cp
Enclosures